

City of Aberdeen
Business Meeting, Work Session
November 18, 2013

Present: Mayor Bennett, Councilwoman Elliott, Councilwoman Landbeck,
Councilman Garner and Councilwoman Young

Absent: Councilwoman Elliott

Also Present: Douglas Miller, City Manager
Phyllis Grover, Director of Planning and Community Development
Opiribo Jack, Director of Finance
Monica Correll, City Clerk
Doris Manner, Recording Secretary

1. Call to Order: The meeting was called to order at 4:00 p.m. in the Council Chambers by Mayor Bennett.
2. Matters of Immediate and Urgent Business - None
3. Work Session
 - a. Planning
 - 1) TOD Update: Ms. Grover noted that Ordinance No. 13-O-09 is an Amendment to the Development Code for Transit Oriented Development. It includes Form Based Code and new definitions that address transit oriented development.
 - 2) IBD Zone Re-write: Ms. Grover indicated that the existing property, located at I-95 and Gilbert Road, consists of approximately 100 acres. She discussed the amendments to the Integrated Business District and asked the Council to review.
 - 3) Frito Lay Site Plan: The Council discussed the Frito Lay expansion plans which were presented at the last Planning Commission by Frito Lay. The area consists of 164,000 square feet in Aberdeen for additional distribution space with minimal increase to the number of employees. Ms. Grover added that the Concept Plan is scheduled to be presented in January. The Mayor noted the discrepancies coming from the Frito Lay corporate office to us and to the State which must be worked out before the Council reviews the request.
 - 4) Normandy Woods Proposal: Mr. Miller said this is a residential project located off Bush Chapel Road. Plans have been presented by the developer for a condominium development. Ms. Grover added that Schofield Gardens, LLC will present plans for 116 condominium units in December to the Planning Commission. Letters have been mailed to neighboring communities and the developer is to have a community meeting.
 - 5) Colony at Beards Hill Extension: Mr. Miller indicated that the Colony at Beards Hill Extension request is not active at this time.

b. Finance

- 1) Audit Findings: Mr. Jack presented: The Summary of the City's Audited Financial Statements for Fiscal Year 2013 Report to the Mayor and Council.

Summary of the City's Audited Financial Statements for Fiscal Year 2013

The financial statements for the fiscal year ended June 30, 2013 were audited by the independent accounting firm, McGladery, LLP. The City received an unqualified opinion on the financial statements.

Overall, the financial position of the City improved over the prior fiscal year. The General Fund had a budgetary surplus of \$2.2 million. Most of the surplus came from property and income tax revenues, state and county shared revenues, and savings in salaries and benefits.

The Water Fund posted net income of \$170 thousand before transfers and capital grants. The Sewer and Stadium funds posted net losses of \$25 thousand and \$28 thousand, respectively. However, the Sewer Fund realized a profit of \$3.1 million with capital grants, and the Stadium Fund posted a profit of \$251 thousand with transfer-in.

The City's long-term liabilities increased by \$1.4 million to \$29.1 million mostly due to new loans for the waste water treatment plant upgrade.

The City's net position increased by \$6 million to \$64.9 million. Net position is the difference between total assets and total liabilities. This increase is primarily due to tax revenues, charges for services, and capital grants.

The fund balance for the City's governmental funds (General, Capital Projects, and Special Funds) was \$11.9 million. Fund balance is the difference between current assets and current liabilities. About \$10.9 million of the \$11.9 million is unassigned and can be used to support the general government's operating needs.

In the governmental funds, revenues and expenses were relatively consistent compared to the prior year.

In the enterprise funds, capital grants and contributions decreased by \$3.4 million from the prior year due to decreased state funding for the upgrades to the waste water treatment plant. Expenses increased by \$241 thousand.

Finally, it is worth pointing out that the City's Net Position has steadily increased since 2006. The trend in net position may be a useful indicator of whether the financial position or condition of the City is improving or weakening. The trend indicates improvement.

- 2) Fitch Rating Report: Mr. Miller noted that the City of Aberdeen has received a AA bond rating by Fitch.

c. Public Works

- 3) Paving Project Update: Mr. Miller said that there are 48 streets and Philadelphia Road scheduled for repaving and in some cases, sewer work, in the City. Other areas will be repaired as soon as possible. The repaving of the Stadium will probably start in the spring due to procurement requirements.

d. General, Ethics Case

Mr. Miller reported that a memorandum opinion and order was released November 2013 from the Circuit Court of Harford County by Judge Waldron that reversed and vacated the decision of the Aberdeen Ethics Commission in favor of Mayor Bennett on ethic charges filed by Patrick McGrady during the 2011 Aberdeen Elections. The decision recently rendered by Judge Stephen M. Waldron was important because it affected how Mayor and Councils promote and support economic development in their cities.

Mayor Bennett read the following except from the Memorandum Opinion:

“Both the transcript and common sense support the Plaintiff’s [Mayor Bennett] argument that this trip was taken in the name of economic development, this is, to help the financial strength of a large local business enterprise so that it would derivatively benefit the City of Aberdeen.”

“While his trip obviously was for the benefit of Ripken Baseball, it was the mayor’s objective and agenda to help Aberdeen derivatively by helping Ripken Baseball. Such an effort in the goal of economic development lies squarely in the role of a mayor to help the economic growth of his city. One must consider the procedural backdrop, which is the obvious political motivation of the original complainant [Patrick McGrady]. He abandoned the complaint and lost all interest once his opportunity vanished to derive any further political benefit from the same. The reasonableness of the Commission’s decision is called into question in light of the technical aspect of the Commission’s finding, it’s recognition the alleged violation was unintentional, the significant damage to the record and reputation of a public servant, and the lack of the Commission’s recognition and consideration of the correlation between helping the City of Aberdeen’s economic posture and the helping of a major business based in Aberdeen.”

“Petitioner cites to State Ethics Commission v. Antonetti, 365 Md 428 (2001). The facts of that case do not apply here; however, some of the language in the case is helpful. That court observed as follows: “Ultimately, we must construe the words of the statue such that we avoid a result which is absurd, illogical, or inconsistent with common sense.” Id. at 451.”

“In this case, the Plaintiff argues that the Commission’s decision is, in essence, inconsistent with common sense in failing to recognize legitimate actions taken by the mayor in the role of economic development. He argues that the Commission’s decision is merely second-guessing executive action and discretion, which is better reserved to be evaluated at the ballot box. This Court agrees.”

“Abuse of discretion has been defined as “discretion manifestly unreasonable or exercised on untenable grounds, or for untenable reasons.” *Jenkins v. College Park*, 379 Md 142, 165 (2003); *In re Don Mc.*, 344 Md 194, 201 (1996). For the reasons enumerated herein above, the action of the Commission does appear to be unreasonable under these facts and thus constitutes an abuse of discretion. Under Maryland Rule of Procedure 7-403, this Court reverses and vacates the decision of the City of Aberdeen Ethics Commission.” Issued by Stephen M. Waldron, Judge.

4. Other Matters: Mr. Miller and Mayor Bennett announced calendar events including the Christmas Street Parade scheduled for December 7.
5. Adjournment: Being no further business, the meeting was adjourned by unanimous consent at 4:47 p.m.